

17. (New) The anchoring device as claimed in claim 16 wherein said top surface of said bolster is shaped to define a channel, said channel being adapted to receive said connecting member when said connecting member is in said second position.

18. (New) The anchoring device as claimed in claim 17 wherein said connecting member is appropriately sized to extend beyond said bolster when said connecting member is in said second position.

19. (New) The anchoring device as claimed in claim 16 wherein said bolster is shaped to lie flat against a patient.

20. (New) The anchoring device as claimed in claim 15 wherein said fitting is externally threaded and is adapted for a tight fit within the tube.

REMARKS

Reconsideration of the above-identified application in view of the amendment above and the remarks below is respectfully requested.

Claims 11-14 have been canceled herein. Claims 1 and 9 have been amended herein. New claims 15-20 have been added herein. Therefore, claims 1-10 and 15-20 are under active consideration.

Claims 1-8 stand rejected under 35 U.S.C. 102(b) "as being anticipated by Kelliher et al. (USPN 5836924)." In support of the rejection, the Patent Office states the following:

Kelliher et al. discloses a tube (42,46) with a lumen and an anchoring device (30) that is attached to said tube, and an elongated connector member (14) having a lumen extending from a first end of said elongated connector member to second end of said elongated connector member; wherein said elongated member being pivotally mounted to said housing and can be aligned with said tube. (Figure 4, 5, 7, 10, 11 and entire reference)

Applicant respectfully traverses the foregoing rejection. Claim 1, from which claims 2-8 depend, has been amended herein and now recites “[a] device for insertion into a body cavity to selectively transport liquids to and from said body cavity, comprising:

a tube comprising a lumen which traverses from an interior of said body cavity to an exterior of said body cavity;

an anchoring device that is attached to said tube, wherein said anchoring device comprises a housing, and an elongated connector member having a lumen extending from a first end of said elongated connector member to a second end of said elongated connector member, said elongated connector member being pivotally mounted to said housing to permit movement between a first position in which said elongated connector member is positioned substantially parallel to said tube to align said lumen of said elongated connecting member with said lumen of said tube to permit transportation of liquids to and from said body cavity and a second position in which said elongated connector member is positioned substantially perpendicular to said tube to prevent alignment of said lumen of said elongated connecting member with said lumen of said tube to prevent transportation of liquids to and from said body cavity.”

Thus amended, claim 1 is neither anticipated by nor rendered obvious over Kelliher et al. for at least the reason that Kelliher et al. does not teach or suggest an insertion device comprising, among other things, a tube and an elongated connector member wherein the elongated connector member is pivotally mounted for movement between a first position in which the tube and the elongated connector member are parallel to one another to permit their respective lumens to be aligned for liquid transport and a second position in which the tube and the elongated connector member are perpendicular to one another to prevent their respective lumens from being aligned,

thereby preventing liquid transport. Instead, Kelliher et al. discloses a feeding apparatus comprising a valve assembly 14 that is rotatably mounted about its longitudinal axis within an external retention portion 18. Valve assembly 14 is not movable between a position in which it is parallel to tube 42/46 and a position in which it is perpendicular to tube 42/46; rather, the angular orientation of valve assembly 14 relative to tube 42/46 is fixed.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

Claims 9 and 10 stand objected to “as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.”

In response to the foregoing objection, Applicant has re-written claim 9 in independent form. Claim 10 depends from claim 9; therefore, it is respectfully submitted that claim 10 need not also be re-written in independent form in order to overcome the instant objection.

Therefore, for at least the above reasons, the foregoing objection should be withdrawn.

New claims 15-20 have been added herein. No new matter is added by these claims. Claim 15, from which claims 16-20 depend, is patentable over Kelliher et al. for at least the reason that Kelliher et al. does not teach or suggest an anchoring device adapted for attachment to a tube comprising a fitting, a bolster and a connecting member wherein the connecting member is pivotally mounted to the bolster for movement between a first position in which the connecting member is positioned substantially parallel to the fitting to align the lumen of the connecting member with the lumen of the fitting and a second position in which the connecting member is positioned substantially perpendicular to the fitting to prevent alignment of the lumen of the connecting member with the lumen of the fitting.

The Patent Office has attached to the present Office Action copies of three different Information Disclosure Statements from Applicant and has indicated on each such statement the fact that the Patent Office has considered the various items listed therein. However, Applicant wishes to note that for one of these Information Disclosure Statements, namely, the Information Disclosure Statement dated February 20, 2002, only the first page of the two pages of references submitted by Applicant was attached to the present Office Action. Therefore, Applicant respectfully requests that the Patent Office, in its next communication to Applicant, provide confirmation to Applicant that the references listed on the second page of the two pages of references were considered as well.

In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is

required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 30, 2003



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Dated: June 30, 2003

MARKED-UP AMENDED CLAIMS 1 AND 9

1. (Amended) A device for insertion into a body cavity to selectively transport liquids to and from said body cavity, comprising:

a tube comprising a lumen which traverses from an interior of said body cavity to an exterior of said body cavity;

an anchoring device that is attached to said tube, wherein said anchoring device comprises a housing, and an elongated connector member having a lumen extending from a first end of said elongated connector member to a second end of said elongated connector member, said elongated connector member being pivotally mounted to said housing[, wherein said elongated connecting member is pivoted to align] to permit movement between a first position in which said elongated connector member is positioned substantially parallel to said tube to align said lumen of said elongated connecting member with said lumen of said tube to [facilitate] permit transportation of liquids to and from said body cavity[, and said elongated connecting member is alternately pivoted to] and a second position in which said elongated connector member is positioned substantially perpendicular to said tube to prevent alignment of said lumen of said elongated connecting member with said lumen of said tube [holding mechanism] to prevent transportation of liquids to and from said body cavity.

9. (Amended) A device for insertion into a body cavity to selectively transport liquids to and from said body cavity [as described in Claim 1], comprising:

a tube comprising a lumen which traverses from an interior of said body cavity to an exterior of said body cavity, wherein said tube is formed of a resilient material[, and further comprising a];

an anchoring device that is attached to said tube, wherein said anchoring device comprises a housing, an elongated connector member, and a fitting, said elongated connector member having a lumen extending from a first end of said elongated connector member to a second end of said elongated connector member, said elongated connector member being pivotally mounted to said housing, wherein said elongated connecting member is pivoted to align said lumen of said elongated connecting member with said lumen of said tube to facilitate transportation of liquids to and from said body cavity and wherein said elongated connecting member is alternately pivoted to prevent alignment of said lumen of said elongated connecting member with said lumen of said tube holding mechanism to prevent transportation of liquids to and from said body cavity, said fitting [that extends] extending from a side of said anchoring device that is opposite said elongated connecting member, said fitting having threads that engage an interior of said tube[, said tube having]; and

a collar positioned on [a] an upper end [there] of said tube, said collar having an irregular shape which engages an exterior of said tube, wherein said fitting forces said tube against said collar to hold said tube in place relative to said anchoring device.